

## DRAFT COMPARATIVE ANALYSIS OF BHUTAN LEGAL FRAMEWORK FOR INVOLUNTARY RESETTLEMENT AND ADB SAFEGUARD POLICY STATEMENT

### Introduction

The objective of this comparative analysis is to provide an overview of the extent to which the legal framework for Bhutan’s Country Safeguard System (CSS) for land acquisition (LA) and involuntary resettlement (IR) is equivalent to the Policy Principles of the Asian Development Bank (ADB) Safeguard Policy Statement (SPS) for IR as set forth in Table 2 of the SPS of 2009. For purposes of this analysis the Objectives and Policy Principles (PPs) have been disaggregated as necessary into respective Key Elements (KEs) to accommodate the compound nature of many of the individual PPs.

The following is based on the provisions of the Land Act of Bhutan, 2007. Reference is also made to the National Land Commission –Notice No. 57 of 28/10/2011, Letter No. NLC/LRD(07) 2011/2067 pertaining to the approval of land acquisition compensation.

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup> Review comments	(D) Recommendations for Full Equivalence
<b>Involuntary Resettlement Safeguards</b> Objectives: <sup>3</sup> To avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.			
<b>Key element (1):</b> Avoid involuntary resettlement wherever possible	<u>Land Act of Bhutan, 2007 (LAB)</u> 70. In the event the mineral resources are extracted and the process of extraction lessens or deteriorates the land utility, the Government shall acquire the land and provide compensation as provided in this Act.  142. The Government may acquire a registered land for public interests.  145. Acquisition shall be in accordance to the procedure on acquisition of registered land.  146. Acquisition of the land occupied by religious monuments shall be avoided.  <u>Definitions</u>	<b>Partial Equivalence</b>  LA and IR are required to be avoided only in the case of religious monuments	The Full Equivalence the legal framework should include provisions requiring the avoidance of involuntary resettlement wherever possible.

<sup>1</sup>Cited text is used to indicate key terms that demonstrate extent of equivalence.

<sup>2</sup> “Full Equivalence” denotes that the national policy documents and legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. “Partial Equivalence” denotes that the national policy documents and legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and “No Equivalence” denotes that no policy provision or legal requirement can be found that correspondsto the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. In some cases, there may be full equivalence for one issue, but only partial equivalence or no equivalence for one or more of the other issues governed by a legal instrument. In those cases, the degree of equivalence for the issue is indicated.

<sup>3</sup>“Objectives” are aspirational statements and are more appropriately compared with corresponding aspirational policy statements of the CSS rather than binding legal instruments.

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	319 In this Act, unless the context requires otherwise, the term: 50) Public interest means the needs arising out of socio-economic development and environmental concerns including cultural, environmental, heritage, protection of land degradation, recreational, social and strategic interests as determined by the Government.		
<b>Key element (2):</b> Minimize involuntary resettlement by exploring project and design alternatives		<b>No Equivalence</b>	For Full Equivalence the legal framework should include provisions requiring the minimisation of involuntary resettlement by exploring project and design alternatives.
<b>Key element (3):</b> Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels	<b>LAB</b> 143. The Government may provide substitute land or cash payment, or both, as compensation.  144. Acquisition of land shall entail a fair compensation.  148. In case of the land acquired in Thromde, the landowner shall be provided cash compensation. If the land to be acquired is the only plot owned by the landowner in the Thromde, the Government shall consider a substitute land in the same Thromde. If the value of substitute land is inadequate additional cash compensation shall be provided subject to the value of land.  <u>Location of substitute land</u> 155. The location of substitute land to be allotted in rural areas shall be in the order of preference of same village, Gewog, and Dzongkhag.	<b>Partial Equivalence</b>  Although there are provisions for compensation upon acquisition but no explicit requirement that the livelihoods of displaced persons be enhanced or restored relative to pre-project levels.	For Full Equivalence the legal framework should include provisions requiring the enhancement, or at least restoration, of the livelihoods of displaced persons in real terms relative to pre-project levels.
<b>Key element (4):</b> Improve the standards of living of the displaced poor and other vulnerable groups.		<b>No Equivalence</b>	For Full Equivalence the legal framework should include provisions requiring that the standards of living of the displaced poor and other vulnerable groups be improved.
<b>Scope and Triggers:</b> The involuntary resettlement safeguards cover physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.			
<b>Policy Principle 1:</b> Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning			

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through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.			
<p><b>Key element (1):</b> Screen the project early onto identify past, present, and future involuntary resettlement impacts and risks</p>	<p><b><u>Land Act of Bhutan, 2007 (LAB)</u></b> <u>Functions of National Land Commission</u> 6 The Commission shall have the following functions:</p> <ul style="list-style-type: none"> <li>a) ...</li> <li>b) Acquisition of registered land and its allotment to Government institutions and GerabDratshang.</li> <li>c) Allotment of substitute land to the Thram holder whose land was acquired.</li> <li>d) Approve cash compensation for the land acquired.</li> <li>...</li> <li>l) Institute Dzongkhag and Thromde Land Acquisition and Allotment Committees.</li> </ul> <p><u>Acquisition and substitution of registered land</u> 196. The applications from Government institutions and GerabDratshang on acquisition of private registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land shall be prescribed by the Commission.</p> <p>197. The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.</p> <p>198. Based on the application received in accordance with Section 197 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant documents required by the Forest and Nature Conservation Act and other laws.</p> <p>199. The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.</p> <p>200. The Commission may either approve or reject the compensation proposed by the Dzongkhag Committee or Thromde Committee with proper justification. If the proposal is not approved, the Commission Secretariat shall inform the Dzongkhag</p>	<p><b>Partial Equivalence</b></p> <p>There is provision for screening including provision of prior written notice to the landowner but no direct requirement to identify past and future involuntary resettlement impacts and risks.</p>	<p>For Full Equivalence the legal framework should require identification of past and future involuntary resettlement impacts and risks.</p>

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	Committee or Thromde Committee with reasons. <sup>4</sup>		
<p><b>Key element (2):</b> Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>	<p><b>LAB</b> <u>Acquisition and substitution of registered land</u> 196. The applications from Government institutions and Gerab Dratshang on acquisition of privately registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land shall be prescribed by the Commission.</p> <p>197. The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.</p> <p>198. Based on the application received in accordance with Section 197 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant documents required by the Forest and Nature Conservation Act and other laws.</p> <p>199. The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.</p>	<p><b>Partial Equivalence</b></p> <p>The feasibility study conducted by the Dzongkhag Committee or Thromde Committee may be considered equivalent to a survey.</p> <p>For the local authority to serve a written notice upon the land owners, there would have to be some census or identification of displaced persons.</p> <p>However, there is no requirement for a gender analysis, specifically related to resettlement impacts and risks.</p>	<p>For Full Equivalence the legal framework should include provisions requiring a gender analysis, specifically related to resettlement impacts and risks.</p>
<p><b>Policy Principle 2:</b> Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.</p>			
<p><b>Key element (1):</b> Carry out meaningful</p>	<p><b>LAB</b></p>	<p><b>No Equivalence</b></p> <p>There are no provisions pertaining to</p>	<p>For Full Equivalence the legal framework should require</p>

<sup>4</sup>It would appear that in terms of the National Land Commission –Notice No. 57 of 28/10/2011, Letter No. NLC/LRD(07) 2011/2067; that from 01.10.2011, the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee is authorized to approve the acquisition involving the monetary compensation. However, all the standards and rates prescribed by the relevant agencies and other necessary due processes have to be followed accordingly. The preliminary proposals to the commission for the purpose of land acquisition and substitute land as required by section 197 of the Land Act are to be continued.

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consultations with affected persons,	<p><u>Mode of compensation for land acquired</u></p> <p>147. The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of the land acquired from rural areas.</p> <p><u>No choice for substitute land</u></p> <p>156. The landowner shall have no choice over the location of substitute land provided by the Government.</p> <p><u>Acquisition and substitution of registered land</u></p> <p>199. The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.</p>	consultation with affected persons other than permitting them to choose between substitute land or cash compensation.	meaningful consultations with affected persons.
<b>Key Element (2) :</b> Carry out meaningful consultations with... host communities		<b>No Equivalence</b>	For Full Equivalence the legal framework should require meaningful consultations with host communities.
<b>Key Element (3)</b> Carry out meaningful consultations with... nongovernmental organizations		<b>No Equivalence</b>	For Full Equivalence the legal framework should require meaningful consultations with nongovernmental organizations
<b>Key element (4):</b> Inform all displaced persons of their entitlements and resettlement options	<p><u>LAB</u></p> <p><u>Mode of compensation for land acquired</u></p> <p>147. The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of the land acquired from rural areas.</p>	<b>Partial Equivalence</b>  Displaced persons are not provided with information about their entitlements other than the choice of substitute land or cash compensation.	For Full Equivalence the legal framework should require that displaced persons be informed of all of their entitlements as well as their resettlement options
<b>Key element (5):</b> Ensure the participation of displaced persons in planning, implementation, and monitoring	<p><u>LAB</u></p> <p><u>Mode of compensation for land acquired</u></p> <p>147. The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of</p>	<b>Partial Equivalence</b>  Participation of displaced persons is limited to the choice of certain compensation options.	For Full Equivalence the legal framework should require participation of displaced persons in the planning, implementation, and monitoring and evaluation of resettlement programmes.

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evaluation of resettlement programmes.	<p>the land acquired from rural areas.</p> <p><u>No choice for substitute land</u></p> <p>156. The landowner shall have no choice over the location of substitute land provided by the Government.</p>		
<p><b>Key element (6):</b> Ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land</p>		<p><b>No Equivalence</b></p> <p>While these vulnerable groups are not excluded there are no provisions directly focussed on them.</p>	<p>For Full Equivalence the legal framework should ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land.</p>
<p><b>Key element (7):</b> Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence introduce provisions requiring the establishment of a grievance redress mechanism.</p>
<p><b>Key element (8):</b> Support the social and cultural institutions of displaced persons and their host population</p>	<p><u>LAB</u></p> <p>146. Acquisition of the land occupied by religious monuments shall be avoided.</p> <p><u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to value and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable</p>	<p><b>Full Equivalence</b></p> <p>There is provision to preserve religious monuments in the acquisition process and to take into account cultural factors in valuation.</p>	<p>None required.</p>

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	property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.		
<b>Key element (9):</b> Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.		<b>No Equivalence</b>	For Full Equivalence the legal framework should include provisions requiring that where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
<b>Policy Principle 3:</b> Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			
<b>Key element (1):</b> When affected livelihoods are land based, improve, or at least restore, the livelihoods of all displaced persons through land-based resettlement strategies where possible,	<u>LAB</u> <u>Functions of National Land Commission</u>  6. The Commission shall have the following functions: ... c) Allotment of substitute land to the Thram holder whose land was acquired.  143. The Government may provide substitute land or cash payment, or both, as compensation.  <u>Mode of compensation for land acquired</u>  147. The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of the land acquired from rural areas.  148. In case of the land acquired in Thomde, the landowner shall be provided cash compensation. If the land to be acquired is the only plot owned by the landowner in the Thomde, the Government shall consider a substitute land in the same Thomde. If the value of substitute land is inadequate additional cash compensation shall be provided subject to the value of land.	<b>Partial Equivalence</b>  There are provisions for land based resettlement approaches. However there are no provisions designed to improve the livelihoods of displaced persons where possible.	For Full Equivalence the legal framework should include provisions to improve or at least restore affected livelihoods through land-based resettlement strategies when such livelihoods are land based, where possible.

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	<p>149. Compensation shall be provided for the immovable property on the acquired land.</p> <p><u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to value and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.</p> <p><u>Location of substitute land</u></p> <p>155. The location of substitute land to be allotted in rural areas shall be in the order of preference of same village, Gewog, and Dzongkhag.</p>		
<p><b>Key Element (2)</b> Improve, or at least restore, the livelihoods of all displaced persons ...[through] cash compensation at replacement value for land when the loss of land does not undermine livelihoods</p>	<p><b><u>LAB</u></b> <u>Functions of National Land Commission</u></p> <p>6. The Commission shall have the following functions: ... d) Approve cash compensation for the land acquired. ...</p> <p>143. The Government may provide substitute land or cash payment, or both, as compensation.</p> <p>144. Acquisition of land shall entail a fair compensation.</p> <p>148. In case of the land acquired in Thromde, the landowner shall be provided cash compensation.</p> <p>149. Compensation shall be provided for the immovable property on the acquired land.</p> <p><u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency</p>	<p><b>Partial Equivalence</b></p> <p>The legal framework provides that valuation of the land and property shall consider the registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable,. Although such provisions are often taken into account in determining “replacement value,” it is not self-evident that this is the objective of the valuation process as required by the legal framework.;</p>	<p>For Full Equivalence the legal framework should make explicit application of the principle of “replacement value” for land when the loss of land does not undermine livelihood.</p>

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	<p>established under the Ministry of Finance to valuate and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.</p> <p><u>Approving and revising compensation rate</u></p> <p>153. The compensation rate fixed by the Property Assessment and Valuation Agency and any subsequent revisions shall be subject to approval of the Government.</p> <p>154. The Property Assessment and Valuation Agency shall revise the compensation rate after every three years.</p> <p><u>Definitions</u></p> <p>319. In this Act, unless the context requires otherwise, the term:</p> <p style="padding-left: 40px;">13) Compensation means either substitute land or cash payment or both provided to the landowner upon acquisition of his land.</p>		
<p><b>Key element (3):</b> [Improve, or at least restore, the livelihoods of all displaced persons through]... replacement of assets with access to assets of equal or higher value</p>	<p><b><u>LAB</u></b></p> <p>148. In case of the land acquired in Thromde, the landowner shall be provided cash compensation. If the land to be acquired is the only plot owned by the landowner in the Thromde, the Government shall consider a substitute land in the same Thromde. If the value of substitute land is inadequate additional cash compensation shall be provided subject to the value of land.</p> <p><u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to valuate and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.</p>	<p><b>Full Equivalence</b></p>	<p>None required.</p>

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	<p><u>Location of substitute land</u></p> <p>155. The location of substitute land to be allotted in rural areas shall be in the order of preference of same village, Gewog, and Dzongkhag.</p>		
<p><b>Key element (4):</b> Improve, or at least restore, the livelihoods of all displaced persons through prompt compensation...<b>for assets that cannot be restored</b></p>	<p><b><u>LAB</u></b> <u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to valuate and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.</p> <p>202 The Commission Secretariat shall at the sametime convey the approval of land substitute orcash payment to the Dzongkhag Committee orThromde Committee and to release thesubstitute land to the new landowner or to effect cash payment and take over the acquired landby the agency concerned upon registration of substitute land.</p>	<p><b>Full Equivalence</b></p>	<p>None required.</p>
<p><b>Key element (5):</b> Improve, or at least restore, the livelihoods of all displaced persons through <b>additional revenues and services through benefit sharing schemes</b> where possible</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should require improvement or at least restoration of the livelihoods of all displaced persons through additional revenues and services through benefit sharing schemes where possible.</p>
<p><b>Policy Principle 4:</b>Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.</p>			

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<p><b>Key element (1):</b> Provide physically and economically displaced persons, with needed assistance including <b>if there is relocation, with secured tenure to relocation land.</b></p>	<p><b>LAB</b></p> <p><u>Substitute land</u> 81.[S]ubstitute land shall be registered in the name of the person to whom the land is allotted.</p> <p><u>Taking over acquired land</u> 158. The land under acquisition shall be taken overonly after registering the substitute land in thename of the affected landowner or the cashcompensation has been made to the landowner. 202. The Commission Secretariat shall at the sametime convey the approval of land substitute orcash payment to the Dzongkhag Committee orThromde Committee and to release thesubstitute land to the new landowner or to effectcash payment and take over the acquired landby the agency concerned upon registration ofsubstitute land.</p> <p><u>Definitions</u> 319. In this Act, unless the context requiresotherwise, the term: 59) Substitute land means compensation providedto the landowner in the form of land for hisregistered land acquired by the Government.</p>	<p><b>Full Equivalence.</b></p>	<p>None required.</p>
<p><b>Key Element (2)</b> Provide physically and economically displaced persons, ...<b>better housing at resettlement sites</b></p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should require physically and economically displaced persons, to be provided with better housing at resettlement sites.</p>
<p><b>Key Element (3):</b> Provide physically and economically displaced persons,with <b>comparable access to employment and production opportunities.</b></p>	<p><b>LAB</b></p> <p>148. In case of the land acquired in Thromde, the landowner shall be provided cash compensation.If the land to be acquired is the only plot owned by the landowner in the Thromde, the Government shall consider a substitute land in the same Thromde. If the value of substitute land is inadequate additional cash compensation shall be provided subject to the value of land. 144. Acquisition of land shall entail a fair compensation.</p>	<p><b>Partial Equivalence</b></p> <p>Where livelihoods are land based the provision of substitute land and/or cash would satisfy the requirement for comparable access to employment and production opportunities.However, the legal framework would not meet this requirement should the livelihoods of displaced persons be other land based.</p>	<p>For Full Equivalence the legal framework should provide comparable access to employment and production opportunities where the livelihoods of physically or economically displaced persons are not land based.</p>

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	<p>148. In case of the land acquired in Thromde, the landowner shall be provided cash compensation.</p> <p>149. Compensation shall be provided for the immovable property on the acquired land.</p> <p><u>Valuation of land and property</u></p> <p>151. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to value and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.</p>		
<p><b>Key Element (4):</b> Provide physically and economically displaced persons, economic and social integration into their host communities, and extension of project benefits to host communities.</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should provide physically and economically displaced persons, economic and social integration into their host communities, and extension of project benefits to host communities.</p>
<p><b>Key element (5):</b> Provide physically and economically displaced persons with needed assistance including transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should provide physically and economically displaced persons with needed assistance including transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities.</p>
<p><b>Key element (6):</b> Provide physically and economically displaced</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal structure should provide physically and economically displaced persons</p>

<b>(A)</b> <b>ADB Safeguard Policy</b>	<b>(B)</b> <b>Corresponding Provisions in National Policy and Legal Instruments<sup>1</sup></b>	<b>(C)</b> <b>Extent of Equivalence<sup>2</sup></b> <b>Review comments</b>	<b>(D)</b> <b>Recommendations for Full Equivalence</b>
persons with needed assistance including <b>civic infrastructure and community services</b>			with needed assistance including civic infrastructure and community services.
<b>Policy Principle 5:</b> Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.			
<b>Key element (1):</b> Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards		<b>No Equivalence</b>  While poor and vulnerable groups are not excluded there are no provisions directly relating to these groups and in particular towards improving the standards of living.  It is noted that there is provision for the granting of rehabilitation land to landless households. This however is not in the context of acquisition.	For Full Equivalence the legal framework should require that the standards of living of the displaced poor and other vulnerable groups, including women, be improved to at least national minimum standards.
<b>Key element (2):</b> In rural areas provide them with legal and affordable access to land and resources	<b><u>LAB</u></b> <b><u>Acquisition of registered land</u></b> 142. The Government may acquire a registered land for public interests. 143. The Government may provide substitute land or cash payment, or both, as compensation. <b><u>Taking over acquired land</u></b> 158. The land under acquisition shall be taken over only after registering the substitute land in the name of the affected landowner or the cash compensation has been made to the landowner. 202. The Commission Secretariat shall at the same time convey the approval of land substitute or cash payment to the Dzongkhag Committee or Thromde Committee and to release the substitute land to the new landowner or to effect cash payment and take over the acquired land by the agency concerned upon registration of substitute land.	<b>Partial Equivalence</b>  While such poor and vulnerable groups are not excluded there are no provisions directly relating to these groups.  It is noted that there is provision for the granting of rehabilitation land to landless households. This however is not in the context of acquisition.	For Full Equivalence the legal framework should provide displaced poor and other vulnerable groups in rural areas with legal and affordable access to land and resources.

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<p><b>Key element (3):</b> in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing</p>	<p><b>LAB</b> <u>Acquisition of registered land</u> 142. The Government may acquire a registered land for public interests. 143. The Government may provide substitute land or cash payment, or both, as compensation. <u>Taking over acquired land</u> 158. The land under acquisition shall be taken over only after registering the substitute land in the name of the affected landowner or the cash compensation has been made to the landowner. 202. The Commission Secretariat shall at the same time convey the approval of land substitute or cash payment to the Dzongkhag Committee or Thromde Committee and to release the substitute land to the new landowner or to effect cash payment and take over the acquired land by the agency concerned upon registration of substitute land.</p>	<p><b>Partial Equivalence</b> While poor and vulnerable groups are not excluded there are no provisions directly relating to these groups. It is noted that there is provision for the granting of rehabilitation land to landless households. This however is not in the context of acquisition.</p>	<p>For Full Equivalence the legal framework should provide displaced urban poor and other vulnerable groups with appropriate income sources and legal and affordable access to adequate housing.</p>
<p><b>Policy Principle 6:</b> Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>			
<p>Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>		<p><b>No Equivalence.</b></p>	<p>For Full Equivalence the legal framework should provide transparent, consistent and equitable procedures where land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>
<p><b>Policy Principle 7:</b> Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.</p>			
<p>Ensure that displaced persons without titles to</p>	<p><b>LAB</b></p>	<p><b>Partial Equivalence</b> Although there are provisions for granting of</p>	<p>For Full Equivalence the legal framework should provide that</p>

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<p>land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.</p>	<p><u>Granting Kidu and rehabilitation land</u></p> <p>71 Granting of Kidu and rehabilitation land shall be the royal prerogative of the Druk Gyalpo.</p> <p><u>Kidu and rehabilitation land</u></p> <p>82 A Kidu or rehabilitation land shall be registered in the Thram in the name of the person or persons to whom the land was granted.</p> <p><u>Definitions</u></p> <p>319 In this Act, unless the context requires otherwise, the term:</p> <p>52) Rehabilitation land means the land granted by His Majesty the King through Kasha to marginal farmers, farmers whose land has been destroyed by natural calamities, farmers living in ecological-risk prone areas, and landless households.</p>	<p>“rehabilitation” land to “marginal farmers” and those affected by ecological risks or natural disasters it is unclear whether this provision applies to persons without land titles who are displaced through other forms of involuntary resettlement.</p>	<p>displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.</p>
<p><b>Policy Principle 8:</b> Prepare a resettlement plan elaborating on displaced persons’ entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>			
<p>Prepare a resettlement plan elaborating on displaced persons’ entitlements the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should include a requirement of preparing a resettlement plan elaborating on displaced persons’ entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>
<p><b>Policy Principle 9:</b> Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.</p>			
<p><b>Key element (1):</b> Disclose a draft resettlement plan, before project appraisal, in an accessible place and a form and</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should include a requirement to disclose a draft resettlement plan, before project appraisal, in an accessible place and a form and language(s)</p>

<b>(A) ADB Safeguard Policy</b>	<b>(B) Corresponding Provisions in National Policy and Legal Instruments<sup>1</sup></b>	<b>(C) Extent of Equivalence<sup>2</sup> Review comments</b>	<b>(D) Recommendations for Full Equivalence</b>
language(s) understandable to affected persons and other stakeholders			understandable to affected persons and other stakeholders.
<b>Key element (2):</b> Disclose the final resettlement plan and its updates to affected persons and other stakeholders.		<b>No Equivalence</b>	For Full Equivalence the legal framework should include a requirement to disclose the final resettlement plan and its updates to affected persons and other stakeholders.
<b>Policy Principle 10:</b> Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.			
<b>Key element (1):</b> Conceive and execute involuntary resettlement as part of a development project or programme	<b>LAB</b> <u>Definitions</u>  319 In this Act, unless the context requires otherwise, the term: 50) Public interest means the needs arising out of socio-economic development and environmental concerns including cultural, environmental, heritage, protection of land degradation, recreational, social and strategic interests as determined by the Government.	<b>Full Equivalence</b>	None required.
<b>Key element (2):</b> Include the full costs of resettlement in the presentation of project's costs and benefits	<b>LAB</b> <u>Acquisition and substitution of registered land</u>  196. The applications from Government institutions and Gerab Dratshang on acquisition of private registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land shall be prescribed by the Commission.  197. The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.  198. Based on the application received in accordance with Section	<b>Full Equivalence</b>	None required.

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	<p>197 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant documents required by the Forest and Nature Conservation Act and other laws.</p> <p>199. The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.</p> <p>200. The Commission may either approve or reject the compensation proposed by the Dzongkhag Committee or Thromde Committee with proper justification. If the proposal is not approved, the Commission Secretariat shall inform the Dzongkhag Committee or Thromde Committee with reasons.</p> <p>201. If substitute land or cash payment is approved, the Commission Secretariat shall make the necessary changes in the Thram.</p> <p>202 The Commission Secretariat shall at the same time convey the approval of land substitute or cash payment to the Dzongkhag Committee or Thromde Committee and to release the substitute land to the new landowner or to effect cash payment and take over the acquired land by the agency concerned upon registration of substitute land.</p> <p>231 The landowner may select the excess land to be deleted in a manner that no Government land or Government Reserved Forests land is enclosed inside the boundary of the selected land, and he shall be compensated for the surrendered area with cash payment fixed by the Government for land acquisition under Section 151 of this Act.</p>		
<p><b>Key element (3):</b> For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation</p>		<p><b>No Equivalence</b></p>	<p>For Full Equivalence the legal framework should require that in the event of a project with significant involuntary resettlement impacts, the involuntary resettlement component be considered for implementation as a stand-alone operation.</p>

<b>(A) ADB Safeguard Policy</b>	<b>(B) Corresponding Provisions in National Policy and Legal Instruments<sup>1</sup></b>	<b>(C) Extent of Equivalence<sup>2</sup> Review comments</b>	<b>(D) Recommendations for Full Equivalence</b>
<b>Policy Principle 11:</b> Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.			
<b>Key element (1):</b> Pay compensation and provide other resettlement entitlements before physical or economic displacement	<b>LAB</b> <u>Taking over acquired land</u>  158. The land under acquisition shall be taken over only after registering the substitute land in the name of the affected landowner or the cash compensation has been made to the landowner.  202 The Commission Secretariat shall at the sametime convey the approval of land substitute orcash payment to the Dzongkhag Committee orThromde Committee and to release thesubstitute land to the new landowner or to effectcash payment and take over the acquired landby the agency concerned upon registration ofsubstitute land.	<b>Full Equivalence</b>	None required.
<b>Key element (2):</b> Implement the resettlement plan under close supervision throughout project implementation		<b>No Equivalence</b>	For Full Equivalence the legal framework should require that the resettlement plan be implemented under close supervision throughout project implementation.
<b>Policy Principle 12:</b> Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.			
<b>Key element (1):</b> Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring		<b>No Equivalence</b>	For Full Equivalence the legal framework should require the monitoring or assessment of resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the resultsof resettlement monitoring
<b>Key element (2):</b>		<b>No Equivalence</b>	For Full Equivalence the legal

<b>(A) ADB Safeguard Policy</b>	<b>(B) Corresponding Provisions in National Policy and Legal Instruments<sup>1</sup></b>	<b>(C) Extent of Equivalence<sup>2</sup> Review comments</b>	<b>(D) Recommendations for Full Equivalence</b>
Disclose monitoring reports			framework should require disclosure of monitoring reports.

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